

**REMARKS/ARGUMENTS**

Claims 1, 2, 6-8 and 17-25 are pending in the application.

Claims 1, 2, 6-8 and 17-25 were rejected under 35 USC §102(e) for allegedly being anticipated by U.S. Patent 6,304,980 by Beardsley et al.

The system and method of the pending claims provide for data backup over a first path or a second path different from the first path, thus providing redundancy. More specifically, claim 1 recites one group of resources as *a first path between a storage system and a first destination* and another group of resources as *a second path between the storage system and a second destination different from the first destination*. Backup processing is performed using the first path according to backup commands which backup a portion of the data in the storage system. If a problem occurs in the first path then backup processing continues using the second path. Independent claims 17 and 22 recite similar limitations.

Beardsley et al. show a primary DASD and a second DASD; e.g., Figs. 1 and 2 (Fig. 2 also shows a control info. DASD, 217). Since the figures show only one primary DASD and one second DASD, Beardsley et al. do not show or suggest backup processing using *a first path between a storage system and a first destination* and *a second path between the storage system and a second destination different from the first destination*, as recited in claim 1 and similarly in claims 17 and 22.

Consequently, Beardsely et al. do not show or suggest the recited combination of backup processing using the first path according to backup commands which backup a portion of the data in the storage system, and if a problem occurs in the first path then continuing the backup processing using the second path.

For at least any one of the foregoing reasons, the rejections of the pending claims are believed to be overcome.

Appl. No. 09/943,982  
Amdt. sent November 16, 2005  
Reply to Office Action of June 17, 2005

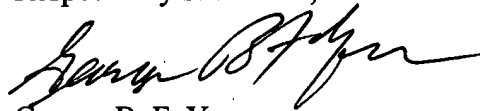
PATENT

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



George B. F. Yee  
Reg. No. 37,478

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 650-326-2400  
Fax: 415-576-0300  
GBFY:cmm  
60636665 v1